

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 92, "IowaCare," Iowa Administrative Code.

These amendments codify policies regarding a suspension of enrollment in IowaCare implemented on July 1, 2013, based on funding for state fiscal year 2013-2014 and pursuant to the amended terms of the waiver of Title XIX requirements allowing federal funding for the IowaCare program.

The IowaCare program has experienced steady growth in enrollment since the implementation of the statewide expansion of the provider network on January 1, 2012. IowaCare providers are concerned about having the capacity to meet future enrollment growth and have expressed the need to cap enrollment in order to maintain quality of care. In addition, enrollment growth exhausted initially appropriated funding and required supplemental appropriations in state fiscal years 2011-2012 and 2012-2013. An enrollment cap will also assist in the phasing out of IowaCare, which is scheduled to sunset on December 31, 2013, and in transitioning current enrollees into the new healthcare coverage structure that will be effective January 1, 2014. For these reasons, the Department submitted a request to the federal Centers for Medicare and Medicaid Services (CMS) to amend the IowaCare 1115 waiver to cap program enrollment as of July 1, 2013. Public notice of the intent to submit the waiver amendment was published in September 2012, and the waiver amendment request was submitted to CMS in October 2012. The Department's budget request and state appropriation for the 2013-2014 state fiscal year were based on the cap.

CMS notified the Department of its approval of the amendment on June 17, 2013. Therefore, these rules are being amended to implement the enrollment cap in accordance with the waiver amendment and the Department's state appropriation for 2013-2014.

These amendments codify the limit set by the amended waiver on the number of members allowed to participate in the program and specify how new members will be added within the enrollment cap. The program accepted applications through June 30, 2013. The enrollment cap will be established at the number of enrolled members in the program when all applications filed prior to July 1, 2013, have been processed. Enrolled members will be allowed to renew coverage if their enrollment period expires after July 1, 2013.

The Council on Human Services adopted these amendments on June 26, 2013.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because current rules provide that the IowaCare program shall be administered in accordance with the waiver of Title XIX requirements allowing federal funding of the program (preamble to Chapter 92) and provide for suspension of enrollment based on available funding (subrule 92.2(6) and rule 441—92.14(249A,249J). The amendments implement the recently amended terms of the waiver regarding a suspension of enrollment implemented on July 1, 2013. Delaying these changes for public comment would only delay implementation of these policies. Further, public notice and opportunity for comment regarding the enrollment cap was provided through notice of the Department's intent to request an amendment of the federal waiver, as part of the Department's budget-setting process, and in the legislative appropriations process. The timing of the recent federal approval of the waiver amendment does not allow for further notice and public comment.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendment made effective July 1, 2013, because the amendments confer a benefit on the public. These amendments confer a benefit on the public by providing notice of the enrollment suspension implemented pursuant to current rules and of the provisions of the amended federal waiver regarding that suspension, including the lifting of the suspension within the cap imposed on enrollment. Further, the suspension and enrollment cap confer a benefit on the public by complying with the amended requirements for federal funding and avoiding deficit spending in violation of the Iowa Constitution.

These amendments are also published herein under Notice of Intended Action as **ARC 0861C** to allow for public comment.

These amendments do not provide for waivers in specified situations because the federal waiver does not provide for exceptions to the enrollment cap and because waivers would cause state expenditures to exceed the funding appropriated. Requests for waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 217.6 and chapter 249J.

These amendments became effective July 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 92.5(6) as follows:

92.5(6) *Disregard of changes.*

a. A person found to be income-eligible upon application or recertification of eligibility shall remain income-eligible for 12 months regardless of any change in income or household size.

b. Persons income-eligible on June 30, 2013, shall remain income-eligible through December 31, 2013, regardless of any change in income or household size.

ITEM 2. Adopt the following **new** subrule 92.6(5):

92.6(5) *Extension of certifications from June 30, 2013.* Any certification period in effect June 30, 2013, shall continue until December 31, 2013.

ITEM 3. Amend subrule 92.14(1) as follows:

92.14(1) *Suspension of enrollment.*

a. To ensure equitable treatment, applications shall be approved on a first-come, first-served basis and enrollment will be suspended when the likely costs of caring for those already enrolled will exhaust the available funding during the year. "First-come, first-served" status is determined by the date the application is approved for eligibility and entered into the computer system.

b. As required by the waiver of Title XIX requirements allowing for federal funding of the IowaCare program, and based on available funding for the 2013-2014 state fiscal year, enrollment of new members in IowaCare will be suspended for applications filed on or after July 1, 2013.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/24/13.